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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/977,464 | 10/15/2001 | Todd Pihl | FX101-02 | 3703 |

7590 07/21/2003

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EXAMINER

JACKSON, MONIQUE R

ART UNIT PAPER NUMBER

1773

DATE MAILED: 07/21/2003

5

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-------------------|--------------------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/977,464 | PIHL ET AL. <i>[Signature]</i> |
| | Examiner | Art Unit |
| | Monique R Jackson | 1773 |

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 09 May 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 7-12 and 25-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 7-12 and 25-39 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's election without traverse of Group II, Claims 7-12 in Paper No. 4 is acknowledged.
2. The amendment filed 5/9/03 has been entered. Claims 1-6 and 13-24 have been canceled. New claims 25-39 have been added. Claims 7-12 and 25-39 are pending in the application.
3. The Examiner notes that the remaining claims are drawn to a product-by-process and that product-by-process claims are not limited to the manipulations of the recited steps, only the structure implied by the steps. "Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior art product was made by a different process." In re Thorpe, 227 USPQ 964,966 (Fed. Cir. 1985.) Hence, the Examiner notes that the presently claimed invention, on its face, is merely an oriented, preferably mono-axiallly oriented, polymer film, preferably linear low density polyethylene, wherein the process claims do not appear to materially affect the final product claimed – the oriented polymer film.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 7-12 and 25-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Tanaka et al (USPN 5,556,920.) Tanaka et al teach an at least monoaxially stretched polypropylene film formed by extruding a film of polypropylene and then stretching the film at least monoaxially which would inherently orient the molecules in one direction such that the tensile strength of the film is greater in one direction over the other direction which is substantially perpendicular (Abstract; Col. 4, lines 48-59.) Tanaka et al also teach that the film may further comprise linear low density polyethylene (LLDPE) (Col. 7, line 34-37.)

6. Claims 7-12 and 25-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Lang et al (USPN 5,169,696.) Lang et al teach a uniaxially oriented linear low density polyethylene film prepared by extruding the LLDPE and utilizing a blown film process wherein the film is then oriented in the machine direction such that the strength in one direction is greater than the strength of the other direction which is substantially perpendicular (Abstract; Examples.)

7. Claims 7-12 and 25-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Herrington (USPN 4,628,536.) Herrington teach a draw tape made of LLDPE which is intermittently oriented in one direction by stretching a heated LLDPE tape between two pairs of rollers, the second pair of rollers traveling faster than the other, wherein monoaxial stretching of the LLDPE tape would inherently orient the molecules in one direction such that the tensile strength of the film is greater in one direction over the other direction which is substantially perpendicular (Abstract; Col. 3, lines 51-Col. 4, line 2.)

8. Claims 7-12 and 25-38 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 03-086514A (JP'514.) JP'514 teach a uniaxially drawn LLDPE film wherein LLDPE is melted, extrusion molded into a film and uniaxially drawn wherein the molecules would inherently be

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oriented in one direction such that the tensile strength of the film is greater in one direction over the other direction which is substantially perpendicular (Abstract.)

9. Claims 7-10, 12, 25-37 and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Schinkel et al (UPSN 4,668,575.) Schinkel et al teach an at least monoaxially stretched multilayer film formed by extruding a film of polypropylene with at least one outer layer of linear low density polyethylene and then stretching the film at least monoaxially which would inherently orient the molecules in one direction such that the tensile strength of the film is greater in one direction over the other direction which is substantially perpendicular (Abstract; Col. 1-2; Example.)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monique R Jackson whose telephone number is 703-308-0428. The examiner can normally be reached on Mondays-Thursdays, 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul J Thibodeau can be reached on 703-308-2367. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Monique R. Jackson
Patent Examiner
Technology Center 1700
July 15, 2003